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June 11, 2003

Tara B. Shostek
Irwin, Campbell & Tannenwald, P.C.
1730 Rhode Island Avenue, NW
Suite 200
Washington, DC 20036-3101

Re: FCC 800 MHz Realignment Proceeding, WT Docket No. 02-55

Dear Ms. Shostek:

We are in receipt of your letter requesting NPSTC to review and support the so-called “Balanced Approach” to the 800 MHz interference problem. NPSTC has carefully reviewed your comments, and we reaffirm support for the Consensus Plan.

We find the “Balanced Approach” neither is balanced nor constitutes a plan to remedy the incompatibility between the “high-site” systems operated by most Public Safety agencies and the “low-site” systems operated by Nextel and other commercial providers. The approach you advocate relies principally on mitigation after Public Safety has experienced interference. That interference can jeopardize the safety and lives of First Responders, as well as impede timely and efficient response to emergency situations. There are trade-offs in either approach, and we view the risk to Public Safety officers and the public from a reactive approach to be the least desirable alternative in comparison with some inconvenience to make a planned transition to new frequencies.

You acknowledge in your letter that the 800 MHz communications system of the City of Baltimore is “not entirely free from interference.” While the City may be willing to tolerate some level of interference, our concern is that as both cellular and Public Safety systems expand, the opportunities for and risk of harmful interference proliferates. The dividing line between “tolerable” and “intolerable” interference unfortunately will be marked by tragedy. Indeed, the “Balanced Approach” proposal to limit the power of low-site systems itself may drive the need for more transmitters at more locations resulting in more risk to Public Safety systems.

The Consensus Plan provides a planned and carefully structured means to transition to new channel assignments, all the while maintaining the functionality of Public Safety communications systems. Similar transitions have occurred in other frequency bands and belie your claim that the Consensus Plan would result in an “unknown replacement.” Moreover, the Consensus Plan provides for the full
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funding of those who would be called upon to move their channel assignments. NPSTC does not understand the claim that the City would incur “financial burdens that the City does not have the resources to meet.” Apparently, there is a fundamental misunderstanding of the Consensus Plan.

In contrast to the underlying premises of the Consensus Plan to pro-actively address the circumstances which give rise to the interference, to maintain Public Safety communications systems while frequencies are being modified, and to finance the cost to Public Safety users to achieve the transition, the “Balanced Approach” puts Public Safety communications, officers and the public at continuing risk of harmful interference and imposes un-funded financial obligations on Public Safety. The entire process of identifying interference on an on-going basis, determining which cellular provider(s) may be causing the interference, and working to resolve that interference will be resource-intensive to Public Safety organizations. Identifying and apportioning responsibility itself may be burdensome, and will delay remedial measures, as will the process of seeking FCC intervention, all the while continuing to place Public Safety communications at risk. Moreover, if the City’s sites were installed after the cellular stations were established, the City likely would be responsible for any remedial measures under the approach you advocate. Finally, the Consensus Plan has the additional benefit of spectrally separating the Public Safety and cellular communications frequency assignments. Once this is accomplished, new Public Safety 800 MHz band equipment can be designed with a narrower front end, with the added benefit of further reducing the future opportunity for harmful interference.

In like fashion that you have asked NPSTC to further consider the “Balanced Approach,” we ask you to recommend that the City of Baltimore reconsider its position. We urge the City to consider the risk and the cost-benefit analyses which has led the overwhelming majority of the Public Safety community to endorse the Consensus Plan as the optimum means to protect First Responders and the public now and in the future, and not to be influenced by the hyperbole (“only 1% of public safety systems reported interference ...”—a statistic taken out of context and never intended to constitute either a catalog of all incidents or even a statistically valid sampling, and “a ‘solution’ that would disrupt 100% of Public Safety systems, not to mention all other licensees in the 800 MHz band”—a gross distortion of the universe facing relocation under the Consensus Plan) of the coalition of Nextel competitors and electric utilities (some of which operate commercial 800 MHz systems) which oppose the Consensus Plan. We would be pleased to assist the City in fully understanding the Consensus Plan if so desired.

Very truly yours,

Marilyn Ward, Chair

cc: Linda C. Barclay, City Solicitor's Office, Baltimore, MD
The Honorable Michael Powell, Chairman, Federal Communications Commission
Marlene H. Dortch, Secretary, Federal Communications Commission, Ex Parte Communication -
WT Doc. No. 02-55
NPSTC Governing Board Members